

Notice of Allowability

Application No.

09/971,856

Examiner

Amanda H Merlino

Applicant(s)

DENK ET AL.

Art Unit

2877

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment filed 9/7/04.
2. ☒ The allowed claim(s) is/are 1, 2 and 4-19.
3. ☒ The drawings filed on 15 September 2004 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other


AMANDA H. MERLINO, JR.
PATENT EXAMINER 2877

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with John McCabe on 11/18/04.

The application has been amended as follows:

- a) on line 8 of claim 1, "variations in the density of the scanned spots" has been replaced by "a non-uniform distribution of the scanned spots, the non-uniform distribution being produced by the oscillatory scanning motion of the free end; and wherein the optical fiber has first and second resonant frequencies for oscillatory motion in respective first and second directions";
- b) claim 3 has been cancelled;
- c) on line 1 of claim 4, "claim 3" has been replaced by "claim 1";
- d) claims 20-33 have been canceled; these claims were to an invention non-elected without traverse.

REASONS FOR ALLOWANCE

Claims 1-2 and 4-19 allowed.

The following is an examiner's statement of reasons for allowance:

As to claims 1-2 and 4-10, the prior of record, taken alone or in combination, fails to disclose or render obvious an optical scanning system comprising a processor

configured to receive measured intensity of light emitted from spots of a sample scanned by light from the free end of the optical fiber, the processor configured to assign intensities to image pixels based on the measured intensity of light in a manner that compensates for distribution variations in the density of the scanned spots" has been replaced by "a non-uniform distribution of the scanned spots, the non-uniform distribution being produced by the oscillatory scanning motion of the free end; and wherein the optical fiber has first and second resonant frequencies for oscillatory motion in respective first and second directions, in combination with the rest of the limitations of claim 1.

As to claims 11-19, the prior of record, taken alone or in combination, fails to disclose or render obvious a process for optically scanning a sample comprising the steps of moving an end of an optical fiber along a path that crosses itself, assigning intensities to image pixels based on measured intensities of light emitted by the scanned spots, the assigning including tracking numbers of ones of the scanned spots that correspond to ones of the image pixels based on locations of the scanned spots, in combination with the rest of the limitations of claim 11.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

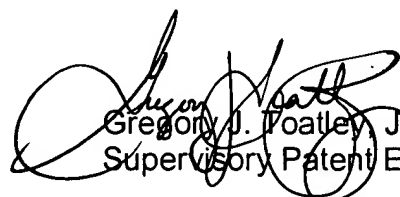
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amanda H Merlino whose telephone number is 571-272-2421. The examiner can normally be reached on Monday and Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory J Toatley, Jr. can be reached on 571-272-2800 ext 77. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Amanda H Merlino *ah*
Patent Examiner
Art Unit 2877
November 18, 2004


Gregory J. Toatley, Jr.
Supervisory Patent Examiner